

## Message Text

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53

ACTION SCI-06

INFO OCT-01 IO-13 ADP-00 ACDA-19 CIAE-00 INR-10 L-03

NSAE-00 NSC-10 RSC-01 SCEM-02 MC-02 RSR-01 /068 W

----- 118930

R 181446 Z JUN 73

FM USMISSION IAEA VIENNA

TO SECSTATE WASHDC 3012

INFORHEGAAA/ AEC GERMANTOWN

AMEMBASSY OSLO

LIMITED OFFICIAL USE IAEA VIENNA 5068

E. O. 11652: N/ A

TAGS: IAEA, TECH, NO

SUBJECT: NORWAY/ IAEA NPT SAFEGUARDS AGREEMENT

REF: ( A) STATE 114504; ( B) STATE 106787

1. SUMMARY. PRIOR RECEIPT OF REF A, MISOFF MET WITH NORWEGIAN AMBASSADOR LUNDE AND IAEA LEGAL STAFF MEMBER, TOGETHER WITH YEOMANS, AEC, FOR DISCUSSIONS CONCERNING PROTOCOL TO SUSPEND SAFEGUARDS UNDER BILATERAL AGREEMENT FOR COOPERATION, DRAFT OF WHICH WAS TRANSMITTED EARLIER. PRINCIPAL POINTS DISCUSSED FOLLOW BELOW. ACTION REQUESTED: GUIDANCE RE QUERIES RAISED. END SUMMARY.

2. IT WAS GENERALLY AGREED THAT PROPOSED OPERATIVE FIRST PARA IS NOT RPT NOT ACCURATE AS DRAFTED, SINCE BASIC UNDERTAKING OF NORWAY/ IAEA NPT SAFEGUARDS AGREEMENT REFERS ONLY TO ACCEPTANCE OF SAFEGUARDS " ON ALL SURCE OR SPECIAL FISSIONABLE MATERIAL....." EGC. ACCORDINGLY, FOLLOWING FORMULATION FOR OPERATIVE PARA ONE WAS PROPOSED: " THE TREATY SAFEGUARDS AGREEMENT SHALL BE APPLIED AS THEREIN PROVIDED TO NUCLEAR MATERIALS SUBJECT TO THE AGREEMENT FOR COOPERATION." IT WAS AGREED THAT THIS FROMULATION WOULD BE REFERRED TO WASHINGTON AND OSLO FOR CONSIDERATION. COMMENT: RECORDS OF IAEA SAFEGUARDS COMMITTEE AND NUCLEAR EXPORTERS ( ZANGGER) COMMITTEE CLEARLY SHOW U. S. LIMITED OFFICIAL USE

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CONCURRING IN VIEW THAT IAEA SAFEGUARDS UNDER NPT SAFEGUARDS AGREEMENTS ARE TO BE APPLIED RPT APPLIED ONLY TO SOURCE AND SPECIAL FISSIONALBE MATERIAL AND NOT RPT NOT TO EQUIPMENT, FACILITIES OR NON- NUCLEAR MATERIAL. THIS VIEW WAS CONFIRMED, FOR EXAMPLE, IN RECENT CASE OF ARRANGEMENTS FOR TRANSFER OF GULF RESEARCH REACTOR TO ROMANIA ( SEE PARA 3(2), STATE 27515 DTD 2/13/73). ACCORDINGLY, BELIEVE PROPOSED REVISED FORMULATION ACCURATELY REFLECTS SITUATION, AND RECOMMEND WE ACCEPT. END COMMENT.

3. RE OPREATIVE PARA 2, AGENCY POINTED OUT THAT TEXT AS DRAFTED CARRIES AN ADDITIONAL OBLIGATION FOR BOTH NORWAY AND AGEHCNY THAN THAT ALREADY PROVIDED FOR IN THE NORWAY/ IAEA NPT SAFEGUARS AGREEM SINCE ARTICLE 14 OF LATTAR REFERS ONLY TO AN UNDERTAKING " IN WHICH AGENCY'S SAFEGUARDS APPLY." IN CASE OF NORWAY, WHERE THERE IS NO RPT NO TRILATERAL NOR ANY OTHER AGREEMENT UNDER WHICH " AGENCY SAFEGUARDS APPLY", THIS CIRCUMSTATNCE DOES NOT RPT NOT PREVAIL. ( RECORD OF SAFEGUARDS COMMITTEE MAKES CLEAR THAT THIS PHRASE IS INTENDED TO MEAN APPLICATION OF AGENCY SAFEGUARDS UNDER OTHER THAN THE SAME NPT SAFEGUARDS AGREEMENT IN QUESTION.) ACCORDINGLY, WHILE THERE IS NO RPT NO PROBLEM WITH TEXT THIS PARA, AGENCY SIMPLY WANTED TO BE SURE THIS WAS CLEARLY UNDERSTOOD BY PARTIES CONCERNED.

4. SECOND PROBLEM RAISED BY AGENCY IN CONNECTION OPERATIVE PARA 2 CONCERNS MECHANISM WHEREBY AGENCY BECOMES INFORMED OF WHAT MATERIALS, EQUIPMENT AND FACILITIES U. S. HAS TRANSFERRED TO NORWAY UNDER THE AGREEMENT FOR COOPERATION, IN ORDER FOR AGENCY TO MAKE JUDGMENT AS TO WHETHER IT IS " SATISFIED" THAT NUCLEAR MATERIALS IN QUESTION ARE NOT RPT NOT SUBJECT TO GUARANTEES IN AGREEMENT FOR COOPERATION, ETC. IT WAS POINTED OUT THAT SIMILAR PROBLEM EXISTS WITH RESPECT TO SEVERAL SUSPENDED TRILATERALS, SINCE AGENCY NO RPT NO LONGER CAN EXPECT TO RECEIVE JOINT NOTIFICATIONS OF EQUIPMENT AND FACILITIES UNDER THESE SUSPENDED AGREEMENTS. MISOFF SUGGESTED PRAGMATIC APPROACH TO RESOLVE THIS PROBLEM; NAMELY, WAIT UNTIL CASE ARISES, AT WHICH TIME AGENCY COULD THEN REQUEST DETAILED INFO FROM U. S. RE ITEMS TRANSFERRED UNDER AGREEMENT FOR COOPERATION. WE INDICATED THAT, IF NECESSARY, WE COULD PROBABLY EXCHANGE LETTERS WITH AGENCY AGREEING GENERALLY TO PROVIDE THIS INFO, AS APPROPRIATE, WHEN REQUIRED. MAIN ADVANTAGE THIS LIMITED OFFICIAL USE

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APPROACH WOULD BE THAT TEXT OF THIS PARA WOULD NOT RPT NOT HAVE TO BE MODIFIED. AGENCY REP CONCURRED THAT THIS WOULD BE MOST DISIRABLE SOLUTION AND PROMISED DISCUSS IT INTERNALLY. WE SAID WE, OF COURSE, WOULD ALSO CHECK WITH WASHINGTON. COMMENT: THIS WOULD APPEAR TO BE CONSISTENT WITH LAST TWO SENTENCES PARA

2. REF A. END COMMENT.

5. AGENCY ALSO RAISED QUESTION AS TO MEANING OF PHRASE " TO THE EXTENT THAT THE ... SAFEGUARDS SPECIFIED... ARE BEING APPLIED BY THE AGENCY" IN OPERATIVE PARA 3, AND WHETHER THIS MEANT THAT THERE WERE " RESIDUAL SAFEGUARDS" INVOLVED, I. E., ITEMS NOT RPT NOT COVERED UNDER NORWAY/ IAEA NPT SAFEGUARDS AGREEMENT. IN VIEW RESPONSE RE HEAVY WATER REF B, PLUS GUIDANCE RECEIVED IN EARLIER CASES OF SUSPENDED TRILATERALS ( E. G. STATE 81084 DTD 5/9/72 AND IAEA VIENNA 1070 DTD 2/17/72), WE INDICATED THAT ANYTHING NOT RPT NOT SUBJECT TO APPLICATION OF SAFEGUARDS UNDER NPT SAFEGUARDS AGREEMENT, AND WHICH, ACCORDING TO U. S. SOMESTIC REQUIREMENTS HAD TO BE SUBJECT TO SAFEGUARDS, WOULD HAVE TO BE SUBJECT TO SAFEGUARDS UNDER BILATERAL AGREEMENT. ACCORDINGLY, AS IN CASES OF SUSPENDED TRILATERALS, THERE WER TECHNICALLY " RESIDUAL SAFEGUARDS" INVOLVED, WHICH COULD ONLY BE ACCOMPLISHED IN THIS CASE UNDER THE BILATERAL.

6. AGENCY ALSO POINTED OUT DESIRABILITY ADDING OPERATIVE PARA 4 ( ENTRY INTO FORCE PROVISION) STATING " THIS PROTOCOL SHALL ENTER INTO FORCE UPON SIGNATURE." WE CONCURRED.

7. AGENCY ALSO INQUIRED AS TO WHETHER WE PREFERRED " THE GOVERNMENT OF THE UNITED STATES OF AMERICA" IN PREAMBULAR PARA AND IN SIGNATURE LINE, INSTEAD OF SIMPLY " THE UNITED STATES OF AMERICA." WE INDICATED WE PROBABLY WOULD PREFER FORMER, BUT WOULD CHECK WITH WASHINGTON.

8. " KINGDOM OF NORWAY" WOULD BE USED IN SECOND RECOGNIZING PREAMBULAR PARA, TO BE CONSISTENT WITH USAGE IN NORWAY/ IAEA NPT SAFEGUARDS AGREEMENT.

9. REQUEST FURTHER GUIDANCE ON FOREGOING POINTS, AS APPROPRIATE.  
PORTER

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\*\*\* Current Handling Restrictions \*\*\* n/a

\*\*\* Current Classification \*\*\* LIMITED OFFICIAL USE

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